

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)
)
Mpower Communications Corp.,)
Transferor)
)
And)
)
LDMI Telecommunications, Inc.,)
Transferee)
)
Application for Authorization)
Under Section 214)
To Transfer Assets in Ohio)

WC 03-31

APPLICATION

To: Wireline Competition Bureau

Pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.04 of the Commission's rules, 47 C.F.R. § 63.04, Mpower Communications Corp. ("Mpower") and LDMI Telecommunications, Inc. ("LDMI") hereby request authority to transfer certain of Mpower's assets in Ohio to LDMI, as described herein. The proposed transaction is a transfer of assets not resulting in a reduction or impairment of service, as contemplated in the Commission's March 21, 2002 Report and **Order** in CC Docket No. 01-150, 17 FCC Rcd 5517 (2002). *See* 17 FCC Rcd at 5548.

In support of this Application, applicants submit the following information pursuant to section 63.04 ~~of~~ the *Commission's* rules:

(I) The name, address and telephone number of each applicant

Transferor:

Mpower Communications Corp
175 Sully's Trail, Suite 300
Pittsford, NY 14534
(585) 218-6550

Transferee:

✓ LDMI Telecommunications, Inc.
8801 Conant Avenue
Hamtramck, Michigan 48211
(800) 825-4545

(2) The government, **state**, or territory under the **laws** of which **each corporate or partnership applicant is** organized

Mpower is a privately held corporation organized under the laws of Nevada. LDMI is a privately held corporation organized under the laws of Michigan.

(3) The name, title, post office address, and telephone number of the officer **or** contact point, such **as legal** counsel, **to** whom correspondence concerning the application is to be addressed

Correspondence concerning this Application should be sent to Mpower's attorney of record:

✓ Brett A. Snyder, Esq.
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, NW
Washington, DC 20009-5427
(202) 986-SO00
(202) 986-8102 Facsimile
bsnyder@llgm.com

with a copy to:

✓ David Woodsmall, Esq.
Vice President – Legal & Regulatory
Mpower Communications Corp.
175 Sully's Trail, Suite 300
Pittsford, **NY** 14534
(585) 218-6550
(585) 218-0635 Facsimile
dwoodsmall@mpowercom.com

and to LDMI's attorney of record:

/ Daniel J. Oginsky, Esq.
Dykema Gossett PLLC
124 W. Allegan, Suite 800
Lansing, MI 48910
(517) 374-9144
(517) 374-9191 Facsimile
doginsky@dykema.com

(4) The name, address, citizenship and principal business of any person or entity that directly or indirectly owns at least ten (10) percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one (1) percent)

Mpower is wholly owned by Mpower Holding Corporation, a publicly traded Delaware corporation with a principal place of business at 175 Sully's Trail, Suite 300, Pittsford, NY 14534. Mpower Holding Corporation does not provide telecommunications services in any jurisdiction and holds no regulatory licenses from any state or federal regulatory agency.

In regard to LDMI, WindTel Holdings L.L.C. ("WindTel"), a Michigan limited liability company, owns 16.9% of LDMI. WindTel's principal place of business is One Town Square, Suite 780, Southfield, Michigan 48076.

Primus Capital Fund Limited Partnership ("Primus"), a Delaware limited partnership, owns 20.5% of LDMI. Primus' principal place of business is 5900 Landerbrook Drive, Suite 200, Mayfield, Ohio 44124.

PNC Capital Corp. ("PNC"), a Delaware corporation, owns 15.0% of LDMI. PNC's principal place of business is 3150 CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222. CID Equity Capital V, L.P., a Delaware limited partnership, owns 10.8% of LDMI.

CID Equity Capital V, L.P. ("CID"), a Delaware limited partnership, owns 10.8% of LDMI. CID's principal place of business is One American Square, Suite 2850, Indianapolis, Indiana 46282. The primary business of these companies is equity investment. No other person or entity directly or indirectly owns more than 10% of the equity of LDMI,

- (5) Certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853

See attached

- (6) A description of the transaction

Mpower is a competitive local exchange carrier currently providing local, long distance, switched access, other access, DSL, and Internet access services in 27 markets in California, Florida, Georgia, Illinois, Michigan, Nevada, Ohio, and Texas. Mpower is bringing geographic concentration to its business by transitioning its customers and assets in several states to other service providers. Mpower requests authorization in this Application to transfer all of its assets and associated customers in Cleveland and Columbus, Ohio to LDMI.

LDMI is a competitive communications carrier headquartered in Hamtramck, Michigan that provides service in multiple markets in Ohio. Through this acquisition, LDMI will expand its service footprint in Ohio to include the Cleveland and Columbus markets.

Through this transaction, Mpower will transfer all of its network assets in Ohio, including switches, collocation equipment and ILEC leased facilities, as well as customers to LDMI.

- (7) A description of the geographic areas in which the transferor and transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area

Mpower is a competitive local exchange carrier currently providing local, long distance, switched access, other access, DSL, and Internet access services in 27 markets in California, Florida, Georgia, Illinois, Michigan, Nevada, Ohio, and Texas.

LDMI is a competitive local exchange carrier currently providing local, long distance, switched access, other access, DSL and internet access services in multiple markets in the states of Michigan and Ohio. It also provides long distance service to customers nationwide.

(8) Presumptive streamlined treatment

Streamlined procedures are presumed to apply to this Application under section 63.03(b)(2)(i) of the Commission's rules, 47 C.F.R. § 63.03(b)(2)(i). The proposed transaction would result in (1) LDMI having a market share in the interstate, interexchange market of less than 10 percent; and (2) LDMI providing competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction. Neither Mpower nor LDMI is dominant with respect to any service.

(9) Identification of all other Commission applications related to the same transaction

LDMI will file, in the near future, a letter notification pursuant to 47 CFR 64.1120(e) regarding the transfer of Mpower's customers to LDMI without obtaining individual subscriber authorizations. Additionally, Mpower and LDMI will file, in the near future, an application to transfer control related to international services under 47 CFR 63.24.

(10) A statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure

Mpower and LDMI are not requesting special consideration of this Application.

(11) Identification of any separately filed waiver requests being sought in conjunction with the transaction; and

None.

(12) Public Interest Statement

The proposed transaction will allow Mpower to enhance its competitive position by providing Mpower with greater flexibility in obtaining financing which will yield benefits for Mpower and allow Mpower to continue operations in the long term. Twelve months ago,

Mpower set out on a path to strengthen its balance sheet. In July of 2002, Mpower completed a financial recapitalization that retired approximately \$600 million in long-term debt and preferred stock. As of January 3, 2003, Mpower's remaining \$50 million in long-term debt was also retired. Coupled with the proposed transaction described herein, the resulting new cash, reduced operational cost structure and new financing are expected to significantly improve Mpower's long-term viability.

The proposed transaction will be one of several to promote Mpower's long-term viability, Mpower is continuing its long-term plan for financial viability by bringing geographic concentration to its business by transitioning its customers and assets in Florida, Georgia, Ohio, Michigan, and Texas to other service providers.' Each of these transactions is expected to result in cash infusions to Mpower and significant reductions to Mpower's cost structure. Importantly, these transactions are expected to provide uninterrupted service for customers transitioning from Mpower and job opportunities for the company's employees in these markets.

The proposed transaction is not detrimental to the public interest because customers currently being served by Mpower will be served by LDMI after the proposed transfer of assets. The proposed transaction does not involve any change in the management or officers of Mpower. The proposed transaction does not in any way modify Mpower's operations in markets other than Ohio, or change the telecommunications services to be provided Mpower's customers in markets other than Ohio, since Mpower will continue to operate pursuant to its existing certificates and tariffs. Because affected customers will be served by LDMI, the proposed transaction will not result in a decrease in currently available services or an increase in rates charged to customers, The proposed transaction is necessary for Mpower's long-term viability. Moreover, grant of this Application will serve the public interest, convenience and necessity by enabling LDMI to

strengthen its competitive presence in Michigan and to concentrate its resources and expertise on providing innovative and diversified service offerings in Detroit. These enhancements will inure directly to the benefit of Mpower's affected customers as well as directly to consumers generally in the domestic telecommunications marketplace. The Commission's grant of this Application is therefore consistent with the public interest in promoting competition among telecommunications carriers.


¹ This Application pertains to Ohio only.

Conclusion

WHEREFORE, Mpower and LDMI respectfully request that the Commission approve this Application for the reasons set forth herein.

Respectfully submitted,

MPOWER COMMUNICATIONS CORP

By: 
David Woodsmall
Vice President – Legal & Regulatory

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(517) 374-9144
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doginsky@dykema.com
Counsel to LDMI Telecommunications, Inc.

Dated: January 22, 2003

In the Matter of)
)
Mpower Communications Corp.)
)
Application for Authorization)
Under Section 214)
To Transfer Assets)

I, David Woodsmall, Vice President – Legal & Regulatory of Mpower Communications Corp. (“Mpower”), hereby certify pursuant to sections 1.2001-1.2003 of the Commission’s rules, 47 C.F.R. §§ 1.2001-1.2003, that neither Mpower, nor any of its officers or directors, nor any of the shareholders holding five percent or more ownership interest in Mpower, is subject to a denial of federal benefits that include FCC benefits pursuant to Section 5301 of the Federal Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

David Mall

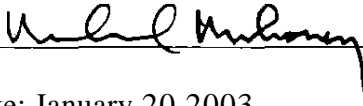
Date: January 21, 2003

**FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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Under Section 214)
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**CERTIFICATION OF LDMI TELECOMMUNICATIONS, INC.
PURSUANT TO SECTIONS 1.2001-1.2003
OF THE COMMISSION'S RULES**

I, Michael Mahoney, CFO of LDMI Telecommunications, Inc. ("LDMI"), hereby certify pursuant to sections 1.2001-1.2003 of the Commission's rules, 47 C.F.R. §§ 1.2001-1.2003, that neither LDMI, nor any of its officers or directors, nor any of the shareholders holding **five** percent or more ownership interest in LDMI, is subject to a denial of federal benefits that include FCC benefits pursuant to Section 5301 of the Federal Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.



Date: January 20, 2003